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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.2650 OF 2005

Maha Pragya Vidya Nidhi
Foundation & Anr. ... Petitioners

Vs.

State of Maharashtra & Ors. ... Respondents

Mr. R.A. Dada, senior counsel with Mr. Milind Vasudeo i/b Mr. M.G. Gawade for the petitioners.

Mr. P.M. Mokashi, A.G.P. for respondents 1 and 2.

Mr. A.Y. Sakhare, senior counsel i/b R.M. Vasudeo for respondents 3 to 37.

CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED: 18TH NOVEMBER 2005.

**P.C.**:-

1. Heard learned counsel for the petitioners and the respondents.

2. Mr. R.M. Vasudeo undertakes to this court that he will file vakalatnama for respondents 3 to 37 within two weeks from today.

3. Admit. Respondents waive service. By consent of the parties, taken up for hearing, forthwith.

4. In this petition, the petitioners are challenging the order dated 20/10/2005 passed by respondent 2 - the Assistant Charity Commissioner, Mumbai. According to the

petitioners, this order is directly contrary to the directions contained in the order dated 6/5/2005 read with the order dated 22/6/2005 passed by this court in Writ Petition No.265 of 2005 filed by respondents 3 and 4. In Writ Petition No.265 of 2005, the present petitioner is respondent 3. Direction (f) contained in the order dated 6/5/2005 reads as follows:

> "After the process of enrolling the members is complete, the Charity Commissioner shall finalise the list of members and hold fresh elections to the Managing Committee of respondent 3 Trust."

5. We find that despite this clear direction, the Charity Commissioner has delegated the work of finalisation of list of members to the Assistant Charity Commissioner. When there was a specific direction to the Charity Commissioner, he could not have delegated the work assigned to him by this court to the Assistant Charity Commissioner. This position is not disputed by Mr. Sakhare, learned counsel for respondents 3 to 37.

6. The learned counsel for respondents 1 and 2 however states that the jurisdiction of the Assistant Charity Commissioner is as per the registration number of the Trust and since the registration number of this Trust fell within the jurisdiction of the Assistant Charity Commissioner, the Charity Commissioner has delegated the

said work to the Assistant Charity Commissioner. We do not find any substance in this submission. When there is a specific direction to the Charity Commissioner, he could not have delegated the work assigned to him by this court to the Assistant Charity Commissioner. In view of this, we set aside the impugned order dated 20/10/2005 passed by the Assistant Charity Commissioner. We direct the Charity Commissioner to comply with the directions issued by this court in its judgment dated 6/5/2005 within a period of six weeks from today. The Charity Commissioner shall fix fresh date of election in accordance with law after the directions contained in the judgment dated 6/5/2005 are complied with. Parties shall appear before the Charity Commissioner on 25/11/2005.

7. All contentions raised by all the parties are kept open.

8. Petition is disposed of in the aforestated terms.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)